

**UNITED STATES BANKRUPTCY
COURT MIDDLE DISTRICT OF
FLORIDA ORLANDO DIVISION**

CASE NO.: 6:18-bk-3958

IN RE:

**EXECUTIVE NON-EMERGENCY
TRANSPORTATION, INC.**

**DIANNE WHITNEY'S SECOND AMENDED MOTION TO LIFT
STAY**

**NOTICE OF OPPORTUNITY TO
OBJECT AND REQUEST FOR HEARING**

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within twenty-one (21) days from the date set forth on the attached proof of service, plus an additional three days for service if any party was served by U.S. Mail.

If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at 400 W. Washington Street, Suite 5100, Orlando, Florida 32801 and serve a copy on the movant's attorney, Derrick R. Connell, Esquire, Morgan & Morgan, PA, 940 S. Harbor City Blvd., Melbourne, Florida 32901, and any other appropriate persons within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing or consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COME NOW the Plaintiff, DIANE WHITNEY, by and through the undersigned attorneys and file this Motion to Lift Stay and would state as follows:

1. If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested. On July 21, 2017, the Plaintiff filed a Complaint in the Circuit Court of Brevard County, Florida, Case No.: 05-2017-CA-037169, against Defendants, EXECUTIVE SHUTTLE SERVICE, INC. AND EXECUTIVE NON-EMERGENCY TRANSPORTATION, INC., for personal injuries arising out of an accident that occurred on August 13, 2016.

3. On October 26, 2018, a Suggestion of Bankruptcy was filed in the above styled Brevard County, Florida case.
4. At the time of the subject accident, Defendant, EXECUTIVE NON-EMERGENCY TRANSPORTATION, INC , had available and sufficient bodily injury insurance coverage through ACE Property and Casualty Insurance Company with liability coverage in the amount of \$500,000 per person. A copy of the declarations page is attached hereto as (“Exhibit A”). The foregoing Insurance Policy was in effect on August 13, 2016.
5. Plaintiff will not be seeking damages in excess of available insurance coverage against EXECUTIVE NON-EMERGENCY TRANSPORTATION, INC.
6. A copy of Whitney’s Proposed Order is attached hereto as (“Exhibit B”)

WHEREFORE, Plaintiff, DIANNE WHITNEY , request this Court enter an Order lifting the stay in Case DIANNE WHITNEY v. EXECUTIVE SHUTTLE SERVICE, INC. AND EXECUTIVE NON-EMERGENCY TRANSPORTATION, INC, Circuit Court in and for Brevard County, Florida, Case No.: 05-2017-CA-037169, to allow the underlying action to proceed forward with discovery and trial.

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I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, by email and/or U.S. Mail, this 10 day of May, 2019, to: **Debtor: Executive Non-Emergency Transportation Inc.**, 3155 Suntree Blvd., Ste 102, Rockledge, FL 32955; **Debtor Attorney: Aldo G. Bartolone, Jr., Esq.**, Bartolone Law, PLLC, 1030 North Orange Avenue, Suite 300, Orlando, FL 32801 [aldo@bartolonelaw.com]; **Bankruptcy Trustee, United States Trustee:** Office of the United States Trustee, George C Young Federal Building, 400 West Washington Street, suite 1100, Orlando, FL 32801; **United States Trustee Attorney: Audrey M. Aleskovsky, Esq.**, Office of the United States Trustee, George C Young Federal Building, 400 West Washington St., Suite 1100, Orlando, FL 32801; and **Defendant's Attorney: Jennifer Brooks, Esquire**, Hamilton, Miller & Birthisel, LLP, 150 Southeast Second Ave., Suite 1200, Miami, FL 33131, [jmillier@hamiltonlaw.com].

/s/David Moffett

David Moffett, Esquire

FBN 336750

Morgan & Morgan, P.A.

20 N. Orange Ave., 16th Floor

P.O. Box 4979

Orlando, FL 32802-4979

Telephone: 407-420-1414

Facsimile: 407-245-3356

Primary email: dmoffett@forthepeople.com

Secondary email: galch@forthepeople.com

Attorneys for Dianne Whitney

INUMBER: CAL H08705938

ACE Producer Compensation Practices & Policies

ACE believes that policyholders should have access to information about ACE's practices and policies related to the payment of compensation to brokers and independent agents. You can obtain that information by accessing our website at <http://www.aceproducercompensation.com> or by calling the following toll-free telephone number: 1-866-512-2862.

TRADE OR ECONOMIC SANCTIONS ENDORSEMENT

| | | | |
|--|----------------------------|---|---|
| Named insured Executive Non-Emergency Transportation, Inc. | | | Endorsement Number |
| Policy Symbol CAL | Policy Number H08705938 | Policy Period 11/07/2015 TO 11/07/2016 | Effective Date of Endorsement 11/07/2015 |
| Issued By (Name of Insurance Company) ACE Property and Casualty Insurance Company | | | |

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, including, but not limited to, the payment of claims. All other terms and conditions of policy remain unchanged.

Authorized Agent



**Important Message to Our
Florida Auto Insurance Policyholders**

ace usa

POLICY NUMBER: CAL H08705938

The Florida Motor Vehicle Insurance Reform Act of 1988 requires that any cancellation or nonrenewal of this policy be reported to the Department of Highway Safety and Motor Vehicles by us. Failure to maintain personal injury protection and property damage liability insurance on a motor vehicle when required by law may result in the loss of registration and driving privileges in Florida. If your driver's license or registration is suspended, the nonrefundable reinstatement fees required by Florida law are \$150 for the first reinstatement within 3 years, \$250 for the second reinstatement within 3 years, and \$500 for each subsequent reinstatement during the 3 years following the first reinstatement.

If you have any questions regarding these requirements, please contact your agent or broker.



aceusa

POLICY NUMBER: CAL H08705938

Questions About Your Insurance?

Answers to questions about your insurance, coverage information, or assistance in resolving complaints can be obtained by calling ACE USA, Customer Support Service Department, at 1-800-352-4462.



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ACE USA
ACE Property and Casualty Insurance Company
P.O. Box 1000
436 Walnut Street
Philadelphia, PA 19106

BUSINESS AUTO DECLARATIONS

POLICY NUMBER: CAL H08705938
NEW BUSINESS

INSURED

Named Insured: Executive Non-Emergency Transportation, Inc.

Address: 3270 Suntree Blvd Suite 1101
Melbourne FL 32940

PRODUCER

Producer Number: 273581
Producer Name: AFFINITY INSURANCE SERVICES INC
Producer Address: 159 EAST COUNTY LINE ROAD
HATBORO PA 19040-1218

PRODUCER BILLED

ITEM ONE - POLICY INFORMATION

Form of Business: Corporation

Named Insured's Business: Non-Emergency Transportation

Policy Period: Policy covers from 11/07/2015 to 11/07/2016 12:01 am standard time at the named insured's address stated above.

Audit Period: NON-AUDITABLE

Estimated Total Premium: \$144,454.00 **Deposit/Minimum Premium (Including taxes and surcharges)**

In return for the payment of premium and subject to all the terms of this policy we agree with you to provide the insurance as stated in this policy.



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 ACE USA
 ACE Property and Casualty Insurance Company
 P.O. Box 1000
 436 Walnut Street
 Philadelphia, PA 19106

BUSINESS AUTO DECLARATIONS

POLICY NUMBER: CAUA08705938
 NEW BUSINESS

ITEM TWO - SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos." "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTO Section of the Business Auto Coverage Form next to the name of the coverage.

| COVERAGES | COVERED AUTOS (Entry of one or more of the symbols from the COVERED AUTO Section of the Business Auto Coverage Form shows which autos are covered autos) | LIMIT THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS | PREMIUM |
|--|---|--|------------|
| LIABILITY | 7,8,9 | \$500,000 | mm |
| PERSONAL INJURY PROTECTION (or equivalent No Fault Coverage) | 5 | SEPARATELY STATED IN EACH PIP ENDORSEMENT \$ 0 DED | m |
| UNINSURED MOTORISTS | 7 | SEE THE ATTACHED ENDORSEMENT(S) AND SCHEDULE OF COVERED AUTOS. | ■ |
| PHYSICAL DAMAGE COMPREHENSIVE COVERAGE | 7 | ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO BUT NO DEDUCTIBLE APPLIES TO LOSS CAUSED BY FIRE OR LIGHTNING. (N/A private passenger types in NY) SEE THE SCHEDULE OF COVERED AUTOS FOR THE DEDUCTIBLE APPLICABLE FOR EACH AUTO. | ■ |
| PHYSICAL DAMAGE COLLISION COVERAGE | 7 | ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO. SEE THE SCHEDULE OF COVERED AUTOS FOR THE DEDUCTIBLE APPLICABLE FOR EACH AUTO. | 1 ■ |
| PREMIUM FOR ENDORSEMENTS | | | 1 |
| TOTAL PREMIUM | | | mm |

"Exhibit B"

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

IN RE:

CASE NO.: 6:18-bk-3958

**EXECUTIVE NON-EMERGENCY
TRANSPORTATION, INC.**

**ORDER GRANTING DIANNE WHITNEY'S SECOND AMENDED
MOTION TO LIFT STAY**

THIS CASE came on for consideration on the Motion to Lift Stay filed by DIANNE WHITNEY. The Motion was served by negative and no appropriate response was timely filed. Accordingly, it is

ORDERED:

1. The Motion to Lift Stay, (Document No._____) is GRANTED.
2. The automatic stay arising by reason of 11 U.S.C. §362 of the Bankruptcy

Code is terminated as to Movant's interest in the following property:

Plaintiffs' Complaint filed on July 21, 2017 in the Circuit Court of Brevard County, Florida, Case No.: 05-2017-CA-037169, against Defendants, EXECUTIVE SHUTTLE SERVICE, INC. AND EXECUTIVE NON-EMERGENCY TRANSPORTATION, INC , for personal injuries arising out of an accident that occurred on August 13, 2016. At the time of the subject accident, Defendant, EXECUTIVE NON-EMERGENCY TRANSPORTATION, INC. , had available and sufficient bodily injury insurance coverage through ACE Property and Casualty Insurance Company with liability coverage in the amount of \$500,000 per person. The foregoing Insurance Policy was in effect on August 13, 2016. Plaintiff will not be seeking damages in excess of available insurance

coverage against EXECUTIVE NON-EMERGENCY TRANSPORTATION,
INC..

3. The automatic stay is modified for the sole purpose of allowing Movant to complete *in rem* relief to take any and all steps necessary to exercise any and all rights it may have in the collateral, to gain possession of said collateral, to have such other and further *in rem* relief as is just, and that movant shall not obtain *in personam* relief against the debtor.

DONE and ORDERED in Orlando, Florida on _____.

Chief United States Bankruptcy Judge

Attorney, David B. Moffett, Esq., is directed to serve a copy of this Order on interested parties and file a proof of service within 3 days of entry of Order.

David B. Moffett, Esquire will furnish copies to:

1. **Debtor: Executive Non-Emergency Transportation Inc.**, 3155 Suntree Blvd., Ste 102, Rockledge, FL 32955;
2. **Debtor Attorney: Aldo G. Bartolone, Jr., Esq.**, Bartolone Law, PLLC, 1030 North Orange Avenue, Suite 300, Orlando, FL 32801 [aldo@bartolonelaw.com];
3. **Bankruptcy Trustee, United States Trustee:** Office of the United States Trustee, George C Young Federal Building, 400 West Washington Street, suite 1100, Orlando, FL 32801;
4. **United States Trustee Attorney: Audrey M. Aleskovsky, Esq.**, Office of the United States Trustee, George C Young Federal Building, 400 West Washington St., Suite 1100, Orlando, FL 32801; and
5. **Defendant's Attorney: Jennifer Brooks, Esquire**, Hamilton, Miller & Birthisel, LLP, 150 Southwest Second Ave., Suite 1200, Miami, FL 33131, [jmillier@hamiltonlaw.com].